

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re :  
:  
LEHMAN BROTHERS : Case No. 08-13555 (JMP)  
:  
HOLDINGS INC., et al., : Chapter 11  
:  
Debtors. : (Jointly Administered)  
:  
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**THE UNITED STATES TRUSTEE'S STATEMENT OF ISSUES PRESENTED  
AND DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD ON ITS  
APPEAL OF THE COURT'S ORDER DATED FEBRUARY 15, 2013**

The United States Trustee for Region 2 (the "United States Trustee") hereby submits, pursuant to Federal Rule of Bankruptcy Procedure 8006, its statement of issues presented and designation of items to be included in the record on its appeal from the Memorandum Decision Granting Omnibus Application for Payment of Fees and Reimbursement of Expenses Claimed by Individual Members of Official Committee of Unsecured Creditors (the "February 15 Order") [ECF Doc. No. 34720] entered in this case on the 15th day of February, 2013.

**STATEMENT OF ISSUES ON APPEAL**

1. Did the Bankruptcy Court err by entering the February 15 Order, which granted, in part, the amended Omnibus Application of (I) Individual Members of Official Committee of Unsecured Creditors and (II) Indenture Trustees Pursuant to Section 1129(a)(4), or Alternatively, Sections 503(b)(3)(D) and 503(b)(4) of Bankruptcy Code for Payment of Fees and Expenses, dated February 1, 2012 (as amended, the "Application") [ECF Doc. No. 24881], and overruling the United States Trustee's objections to the Application?

2. Did the Bankruptcy Court err by approving section 6.7 of the Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors (“The Plan”), which provided that the attorney fees of the individual members of the Official Committee of Unsecured Creditors “shall ... be Allowed as Administrative Expense Claims and paid by the Debtors,” notwithstanding 11 U.S.C. § 503(b)?

3. Did the Bankruptcy Court err when it held that 11 U.S.C. § 1129(a)(4) permits the payment under a reorganization plan of professional compensation that is not otherwise allowable under 11 U.S.C. § 503?

**DESIGNATION OF ITEMS TO BE INCLUDED IN THE RECORD**

<b>ECF No.</b>	<b>Date of Filing or Entry</b>	<b>Document</b>
1	9/15/2008	Voluntary Petition
17	9/15/2008	Letter: Notice of Organizational Meeting to be Held on Tuesday, September 16, 2008 to form an Official Committee of Unsecured Creditors
86	9/17/2008	Order Directing Joint Administration for Case Number 08-13555 (Lehman Brothers Holdings Inc.) and Case Number 08-13600 (LB 745 LLC).
87	9/17/2008	Order Signed on 9/17/2008 Directing that Certain Orders in the Chapter 11 Case Lehman Brothers Holdings Inc. Be Made Applicable to LB 745 LLC
62	9/17/2008	Appointment of Official Creditors' Committee Unsecured Creditors
592	10/3/2008	First Amended Appointment of Committee of Unsecured Creditors
1165	10/21/2008	Application of Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc., et al., Under 11 U.S.C. Section 1103 and Fed. R. Bankr. P. 2014 and 5002, For Order Authorizing Retention and Employment Of Milbank, Tweed, Hadley & McCloy LLP As Counsel, Effective As Of September 17, 2008
1166	10/21/2008	Application of Official Committee Of Unsecured Creditors of Lehman Brothers Holdings Inc., et al., Under 11 U.S.C. Sections 328 and 1103 and Fed. R. Bankr. P. 2014 and 5002, for Order Authorizing Retention and Employment of Quinn Emanuel Urquhart Oliver & Hedges, LLP, as Special Counsel, Nunc Pro Tunc to September 17, 2008

1167	10/21/2008	Application of Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc., et al., For Order Under 11 U.S.C. Sections 328(a) and 1103, Fed. R. Bankr. P. 2014, and S.D.N.Y. LBR 2014-1, Authorizing Employment and Retention of FTI Consulting Inc., as its Financial Advisor as of September 17, 2008
1168	10/21/2008	Application of Official Committee of Unsecured Creditors For Order Under 11 U.S.C. Sections 328(a) and 1103, Fed. R. Bankr. P. 2014, and S.D.N.Y. LBR 2014-1, Authorizing Employment and Retention of Houlihan Lokey Howard & Zukin Capital, Inc. as Investment Banker as Of September 17, 2008
1403	11/5/2008	Interim Order Authorizing Retention and Employment of Quinn Emanuel Urquhart Oliver & Hedges, LLP, as Special Counsel to the Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc. et al., Nunc Pro Tunc to September 17, 2008
1404	11/5/2008	Interim Order Authorizing Retention and Employment of Milbank, Tweed, Hadley & McCloy LLP as Counsel for the Official Committee of Unsecured Creditors, Effective as of September 17, 2008
1405	11/5/2008	Interim Order Authorizing Employment and Retention of FTI Consulting Inc., as Financial Advisor to the Official Committee of Unsecured Creditors, Effective as of September 17, 2008
1407	11/5/2008	Interim Order Authorizing Employment and Retention of Houlihan Lokey Howard & Zukin Capital, Inc. as Investment Banker for the Official Committee of Unsecured Creditors, Effective as of September 17, 2008
1652	11/21/2008	Final Order Authorizing Retention and Employment of Quinn Emanuel Urquhart Oliver & Hedges, LLP, as Special Counsel to the Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc. et al., Nunc Pro Tunc to September 17, 2008
1654	11/21/2008	Final Order Authorizing Retention and Employment of Milbank, Tweed, Hadley & McCloy LLP As Counsel to the Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc., et al., Effective as of September 17, 2008
1655	11/21/2008	Final Order Authorizing Employment and Retention Of FTI Consulting Inc., as its Financial Advisor to the Official Committee of Unsecured Creditors of Lehman Brothers Holdings Inc., et al., Effective as of September 17, 2008
2279	12/17/2008	Order Authorizing Employment and Retention of Houlihan Lokey Howard & Zukin Capital, Inc. as Investment Banker to the Official Committee of Unsecured Creditors as of September 17, 2008
4454	7/20/2009	Application of Official Committee of Unsecured Creditors For Order Pursuant to 11 U.S.C. §§ 328(A) and 1103, Fed. R. Bankr. P. 2014, 2016(A), and 5002, and Local Rule 2014-1 Authorizing Retention and Employment of Richard Sheldon, Queen's Counsel For Limited Purposes Nunc Pro Tunc to June 23, 2009

4763	8/11/2009	Order Authorizing Retention and Employment of Richard Sheldon, Queen's Counsel For Limited Purposes Nunc Pro Tunc to June 23, 2009
6217	12/15/2009	Amended Appointment of Official Creditors' Committee (Second Amended Appointment)
7034	2/9/2010	Appointment of Official Creditors' Committee -- Third Amended Appointment of Committee of Unsecured Creditors
18124	6/29/2011	Second Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors
18125	6/29/2011	Debtors' Disclosure Statement for Second Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors Pursuant to Section 1125 of the Bankruptcy Code
19157	8/11/2011	Objection of the United States Trustee to Amended Motion (I) for Approval of the Disclosure Statement and the Form and Manner of Notice of the Disclosure Statement Hearing, (II) Establishing Solicitation and Voting Procedures, (III) Scheduling a Confirmation Hearing, and (IV) Establishing Notice and Objection Procedures for Confirmation of the Debtors' Joint Chapter 11 Plan
19935	8/31/2011	Transcript of Hearing Held on 08/30/2011 re: Amended Motion (i) for Approval of the Disclosure Statement and the Form and Manner of Notice of the Disclosure Statement Hearing, (ii) Establishing Solicitation and Voting Procedures, (iii) Scheduling a Confirmation Hearing, and (iv) Establishing Notice and Objection Procedures for Confirmation of the Debtors' Joint Chapter 11 Plan
19627	9/1/2011	Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors
19629	9/1/2011	Debtors' Disclosure Statement for Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors Pursuant to Section 1125 of the Bankruptcy Code
21640	11/4/2011	United States Trustee Objection to Motion for Confirmation of the Debtors' Third Amended Joint Plan of Reorganization
22737	11/29/2011	Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors
22743	11/29/2011	Declaration of Jane Sullivan on Behalf of Epiq Bankruptcy Solutions, LLC, Regarding Voting and Tabulation of Ballots Cast on Debtors' Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors
23023	12/6/2011	Order Signed Confirming Modified Third Amended Joint Chapter 11 Plan of Lehman Brothers Holdings Inc. and its Affiliated Debtors

23130	12/7/2011	Transcript of Hearing Held on 12/06/2011 re: Modified Third Amended Joint Chapter 11 Plan of Lehman; Brothers Holdings Inc. and its Affiliated Debtors
24762	1/30/2012	Notice of Omnibus Application of (I) Individual Members of Official Committee of Unsecured Creditors and (II) Indenture Trustees Pursuant to Section 1129(A)(4), or, Alternatively, Sections 503(B)(3)(D) and 503(B)(4) of Bankruptcy Code For Payment of Fees and Reimbursement of Expenses
24881	2/1/2012	Notice Of Amendment to Omnibus Application of (I) Individual Members of Official Committee of Unsecured Creditors and (II) Indenture Trustees Pursuant to Section 1129(A)(4), or, Alternatively, Sections 503(B)(3)(D) and 503(B)(4) of Bankruptcy Code For Payment of Fees and Reimbursement of Expenses
25384	2/15/2012	Fee Committee's Limited Objection to the Omnibus Application of (I) Individual Members of Official Committee of Unsecured Creditors and (II) Indenture Trustees Pursuant to Section 1129(A)(4), or, Alternatively, Sections 503(B)(3)(D) and 503(B)(4) of Bankruptcy Code For Payment of Fees and Reimbursement of Expenses
25394	2/15/2012	Omnibus Objection of the United States Trustee to Motion of Individual Members of the Creditors' Committee For Reimbursement of Professional Fees and Expenses
29195	7/3/2012	Notice of Application of the Ad Hoc Group of Lehman Brothers Creditors For Compensation For Professional Services Rendered By, and Reimbursement of Actual and Necessary Expenses of, its Professionals Pursuant to Section 503(B) of The Bankruptcy Code
29222	7/5/2012	Application of the Ad Hoc Group of Holders of Notes Issued By Lehman Brothers Treasury Co. B.V. and Guaranteed By Lehman Brothers Holdings, Inc., Pursuant to 11 U.S.C. § 503(B) for Allowance of Administrative Expenses For Counsel's Services Incurred in Making a Substantial Contribution in These Chapter 11 Cases
29231	7/5/2012	Application for Final Professional Compensation of FTI Consulting, Inc. for Allowance of Compensation for Services Rendered and for Reimbursement of Expenses for the Period September 17, 2008 Through March 6, 2012
29236	7/5/2012	Application for Final Professional Compensation for Quinn Emanuel Urquhart & Sullivan, LLP, Creditor Comm. Atty, period: 9/17/2008 to 3/5/2012
29237	7/5/2012	Application for Final Professional Compensation of Houlihan Lokey Howard & Zukin Capital, Inc., Investment Banker to the Official Committee of Unsecured Creditors, for Allowance of Compensation for Professional Services Rendered and Reimbursement of Actual and Necessary Expenses Incurred From September 17, 2008 Through March 6, 2012

29238	7/5/2012	Application for Final Professional Compensation of Milbank, Tweed, Hadley & McCloy LLP, Counsel to Official Committee of Unsecured Creditors, Seeking Final Approval and Allowance of Compensation for Services Rendered and for Reimbursement of Expenses During Period From September 17, 2008 Through and Including March 6, 2012
29239	7/5/2012	Lehman Brothers Special Financing Inc. Working Group's Application for Entry of an Order, Pursuant to 11 U.S.C. §§ 503(b)(3)(D) and 503(b)(4) for Allowance and Reimbursement of Reasonable Professional Fees and Actual, Necessary Expenses in Making a Substantial Contribution in These Cases
29240	7/5/2012	Application of Goldman Sachs Bank USA and Goldman Sachs International for Entry of an Order Pursuant to 11 U.S.C. §§ 503(b)(3)(D) and 503(b)(4) for Allowance and Reimbursement of Reasonable Professional Fees in Making a Substantial Contribution in These Cases
29639	7/25/2012	United States Trustee's Omnibus Objection to Motions by Ad Hoc Group of LBHI Creditors, Ad Hoc Group of LBT Noteholders, Goldman Sachs and the LBSF Working Group for Allowance and Payment of Fees and Expenses Pursuant to Code Section 503(b)
29785	8/1/2012	Omnibus Response of Official Committee of Unsecured Creditors to Applications for Allowance and Payment of Fees and Reimbursement of Expenses Pursuant to 11 U.S.C. § 503(b) of: (i) the Ad Hoc Group of Lehman Brothers Creditors, (ii) the Ad Hoc Group of Holders of Notes Issued by Lehman Brothers Treasury Co. B.V. and Guaranteed by Lehman Brothers Holdings Inc., (iii) Goldman Sachs Bank USA and Goldman Sachs International, and (iv) the Lehman Brothers Special Financing Inc. Working Group
29977	8/13/2012	Fee Committee's Position Statement on Pending Section 503(b) Applications
30124	8/16/2012	Fee Committee's Amended Position Statement on Pending Section 503(b) Applications
30943	9/17/2012	Preliminary Reply in Support of Application of the Ad Hoc Group of Lehman Brothers Creditors for Compensation for Professional Services Rendered by, and Reimbursement of Actual and Necessary Expenses of, its Professionals Pursuant to Section 503(B) of the Bankruptcy Code
31062	9/24/2012	Order Granting the Application of the Ad Hoc Group of Holders of Notes Issued by Lehman Brothers Treasury Co. B.V. and Guaranteed by Lehman Brothers Holdings, Inc. for Allowance of Administrative Expenses For Counsel's Services Incurred In Making A Substantial Contribution In These Chapter 11 Cases

31158	9/20/2012	Transcript of Hearing Held 09/09/2012 re: Application of the Ad Hoc Group of Lehman Brothers Creditors for Compensation for Professional Services Rendered by, and Reimbursement of Actual and Necessary Expenses of, its Professionals Pursuant to Section 503(b) of the Bankruptcy Code Rendered by, and Reimbursement of Actual and Necessary Expenses of, its Professionals Pursuant to Section 503(b) of the Bankruptcy Code
31063	9/24/2012	Order Granting in Part the Application of the Ad Hoc Group of Lehman Brothers Creditors for Compensation for Professional Services Rendered By, and Reimbursement of Actual and Necessary Expenses of, its Professionals.
31064	9/24/2012	Order Granting Application of Goldman Sachs Bank USA and Goldman Sachs International for Entry of an Order for Allowance and Reimbursement of Reasonable Professional Fees in Making a Substantial Contribution in These Cases
31252	10/9/2012	Statement of the United States Trustee with Respect to Remaining Applications of: (i) the Ad Hoc Group of Lehman Brothers Creditors, (ii) the Lehman Brothers Special Financing Inc. Working Group and (iii) Goldman Bank USA and Goldman International for Allowance and Payment of Fees and Reimbursement of Expenses Pursuant to 11 U.S.C. Sec. 503(b)
31312	10/11/2012	Revised Order Granting in Part the Application of the Ad Hoc Group of Lehman Brothers Creditors for Compensation for Professional Services Rendered By, and Reimbursement of Actual and Necessary Expenses of, its Professionals
31480	10/15/2012	Order Granting in Part the Application of the Ad Hoc Group of Lehman Brothers Creditors for Compensation for Professional Services Rendered By, and Reimbursement of Actual and Necessary Expenses of, its Professionals
32129	11/15/2012	Response / Reply of (I) Individual Members of Official Committee of Unsecured Creditors and (II) Indenture Trustees in Further Support of Omnibus Application Pursuant to Section 1129(a)(4), Or, Alternatively, Sections 503(b)(3)(D) and 503(b)(4) of Bankruptcy Code for Payment of Fees and Reimbursement of Expenses
32339	11/27/2012	Reply in further support of the Final Fee Application of Milbank, Tweed, Hadley & McCloy LLP, Counsel to Official Committee of Unsecured Creditors, Seeking Final Approval and Allowance of Compensation for Services Rendered and for Reimbursement of Expenses During Period from September 17, 2008 Through and Including March 6, 2012

32694	12/10/2012	Order Granting Final Application for Final Allowance of Compensation for the Period from September 15, 2008 Through March 6, 2012 and Reimbursement of Expenses for Milbank, Tweed, Hadley & McCloy LLP
32765	12/12/2012	Supplement To Omnibus Objection of the United States Trustee to Creditors' Applications For Reimbursement of Professional Fees and Expenses
32894	12/17/2012	Official Committee of Unsecured Creditors in Further Support of Omnibus Application of (I) Individual Members of Official Committee of Unsecured Creditors and (II) Indenture Trustees Pursuant to Section 1129(A)(4), or, Alternatively, Sections 503(b)(3)(D) and 503(b)(4) of Bankruptcy Code for Payment of Fees and Reimbursement of Expenses
32965	12/19/2012	Order Granting Final Applications for Allowance of Compensation for Professional Services Performed and Reimbursement for Actual and Necessary Expenses Incurred for the Period of September 15, 2008 Through March 6, 2012 for FTI Consulting, Inc.
33974	1/17/2013	Order Granting Final Applications for Allowance of Compensation for Professional Services Performed and Reimbursement of Actual and Necessary Expenses Incurred for The Period of September 15, 2008 through March 6, 2012 for Houlihan Lokey Howard & Zukin Capital, Inc.
34720	2/15/2013	Memorandum Decision Signed on 2/15/2013 Granting Omnibus Application for Payment of Fees and Reimbursement of Expenses Claimed by Individual Members of Official Committee of Unsecured Creditors
34990	2/14/2013	Transcript regarding Hearing Held on 02/13/2013 <sup>1</sup>
35661	3/1/2013	Notice Regarding Final Resolution of Matters Related To United States Trustee's Objection To Fees
35662	3/1/2013	Notice of Appeal of Memorandum Decision Granting Omnibus Application for Payment of Fees and Reimbursement of Expenses Claimed by Individual Members of Official Committee of Unsecured Creditors entered February 15, 2013

Dated: New York, NY  
March 15, 2013

Respectfully submitted,

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UNITED STATES TRUSTEE

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<sup>1</sup> Portion relating to oral argument is located at pp 47-119.